IN THE HIGH COURT FOR THE STATES OF PUNJUAB AND HARYANA AT CHANDIGARH

CRL.R.NO. 54 of 1995

DATE OF ORDER:26.9.2007

Joginder Singh ....Petitioner

Versus

State of Punjab ....Respondent

CORAM: HON'BLE MR. JUSTICE A.N. JINDAL

Present: Mr. Harinder Sharma, Advocate,
for the petitioner.
Mr. Anter Singh Brar, DAG, Punjab.

A.N. JINDAL,J.

The petitioner Joginder Singh has assailed the judgment dated 10.1.1995, passed by Additional Sessions Judge, Faridkot, dismissing the appeal of the petitioner against the judgment dated 5.2.1993, passed by Chief Judicial Magistrate, Faridkot, convicting the petitioner under Section 304-A IPC and sentencing him to undergo RI for one year and to pay a fine of Rs. 500/-.

The allegations as unfolded by the prosecution are that on 17.10.1988, Tarsem Lal was going on his bicycle on Muktsar-Kotkapura road after making enquiry about the delivery of goods from Delhi-Punjab Goods Carriers. At about 11:30 a.m, when he was a little away from the main gate of electricity Board, Kotkapura, Walaiti Ram emerged from that office on a bicycle and came on the road. In the meantime, the petitioner while driving Jeep No. PJO-4016 in a rash and negligent manner came from the side of Muktsar and struck against the bicycle of Walaiti Ram. Resultantly, he suffered multiple injuries and the bicycle was smashed. Walaiti Ram was shifted to the hospital from where he was referred to Guru Gobind Singh Medical College, Faridkot, where he succumbed to the injuries. On the statement of Tarsem Lal, the FIR was registered. ASI Gurdip Singh took up the investigation. He collected the post mortem report from Dr. K.K. Aggarwal; prepared the site plan; got the scene of occurrence photographed from Parshotam Lal PW2. He also got the jeep tested from Rajinder Kumar Mechanic on 10.10.1988 and arrested the

accused. On completion of investigation, the challan was presented and he was charged under Section 304-A IPC.

At the trial the prosecution examined among others Dr. K.K. Aggarwal PW1, who conducted post mortem examination on the dead body of Walaiti Ram, Dr. Pavittar Brar PW4, who medically examined Walaiti Ram in Civil Hospital, Kotkapura, Tarsem Lal complainant PW5, Pardeep Kumar PW7 before whom the appellant made extra judicial confession and who produced the petitioner before the police, ASI Gurdip Singh investigator PW8 and Tara Chand witness of the actual occurrence PW9.

When examined under Section 313 Cr.P.C. the petitioner denied all the incriminating circumstances appearing against him and pleaded his false implication.

In his defence, the petitioner examined Ram Sarup DW1, who prepared site plan Ex. D1 and Angrez Singh DW2 to prove alibi.

The trial ended in conviction. The appeal was also dismissed.

The testimonies of Tarsem Lal informant PW5 and Tara Chand PW9 have been challenged merely on the ground that the same suffered from some improvements and discrepancies. But having scrutinized the statements of these witnesses, it appears that the discrepancies are not of such nature as may affect the sub spectrum of the case. Minor discrepancies are bound to occur in the statements of the truthful witnesses. Tara Chand PW9 is the shopkeeper. His shop is quite near to the place of occurrence. He has given the minute details of the occurrence. While challenging the testimony of Parshotam lal Photographer PW2, it was stated that during the cross examination photographer stated that he took the photographes PW2/7 to 12 at about 12 noon, but it appears that he deposed like this due to slip of tongue. He appears to have attributed the time regarding some other snaps. The testimony of the aforesaid witnesses has been corroborated by the medical evidence as well as Pardeep Kumar PW7, before whom the petitioner had made extra judicial confession. That apart, the trial Court which had the occasion to see the demeanor of the witnesses found them most material and reliable. No such illegality in the procedure or any such irregularity resulting into failure of justice has been pointed out, warranting interference in the in the two Courts below.

As a last resort, it has been contended that a lenient view may

be taken on the point of sentence.

Heard on the point of sentence, the case against the petitioner was registered in the year 1988 and he has faced agony of criminal proceeding since then. No previous bad antecedent has been brought on record so as to deny him the benefit of probation. As such, the ends of justice would be met, if the petitioner is extended to benefit of probation.

Consequently, while dismissing the petition, sentence passed against the petitioner is modified to the extent that the petitioner is released on probation under Section 4(1) of the Probation of offenders Act, 1958 on his executing a bond to the satisfaction of the trial Court for a period of one year within which period he shall continue to be of good behaviour and keep peace and in case of breach of conditions of the bond he will be ready to serve sentence as and when called for.

However, the petitioner is directed to pay a sum of Rs. 10,000/- to the LRs of the deceased, within three months from the passing of this order, failing which the petition shall be treated as dismissed in toto.

26.9.2007 (A.N. JINDAL)
rajeev JUDGE

To be referred to reporter : Yes/no